



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

APR - 4 2014

**OFFICE OF
COMPLIANCE AND ENFORCEMENT**

Reply To: OCE-133

Certified Mail – Return Receipt Requested

Mr. Terry Jones
Owner/Operator
Rim Fire Ranch, LLC
5888 Sandy Avenue
Emmett, Idaho 83617

Re: Notice of Intent to File Administrative Complaint for Violation of the Clean Water Act
and Information Request

Dear Mr. Jones:

The U.S. Environmental Protection Agency ("EPA") has documented violations of the Clean Water Act at the facility located at 5888 Sandy Avenue, Emmett, Idaho 83617. Over the last five years, pollutants from your facility were discharged into the Sand Hollow Drain. These discharges were not authorized by a Clean Water Act permit. The purpose of this letter is to inform you that EPA is prepared to initiate an enforcement action for these violations and to offer you the opportunity to discuss this matter with EPA prior to the filing of a complaint. Furthermore, enclosed with this letter is an Information Request related to the discharge of pollutants issued pursuant to Section 308 of the Clean Water Act, 33 U.S.C. § 1318. The failure to provide all requested information, the failure to adequately explain the basis for such failure, or the making of any false material statement or representation in response to this Information Request constitutes a violation of Section 308, and may result in an enforcement action pursuant to Section 309 of the Clean Water Act, 33 U.S.C. § 1319, and Title 18 of the United States Code, 18 U.S.C. § 1001.

Section 309 of the Clean Water Act, 33 U.S.C. § 1319, authorizes EPA to assess administrative penalties for violations of the Clean Water Act of up to \$16,000 per day of violation or to bring a civil action in federal district court seeking civil penalties of up to \$37,500 per day for each violation. Under the terms of Section 309, EPA must consider the following factors in determining the amount of penalty it will seek: the seriousness of the violation(s), the economic benefit (if any) resulting from the violation, any history of such violations, any good-faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator, and other matters as justice may require.

In general, EPA favors prefiling discussions, which help ensure that we have all relevant information and may lead to resolution that avoids the time and expense of litigation. If we are able to reach a settlement, we would resolve the case with an administrative consent agreement and final order, and EPA would not file a complaint. Once a consent agreement and final order is signed by all parties, EPA generally issues a press release announcing the settlement.

If you and EPA do not reach a settlement **within 90 days** of receipt of this letter, EPA will either file an administrative complaint, and the case will be assigned to an administrative law judge, or refer the matter to the Department of Justice for filing in federal district court. EPA reserves the right to seek the maximum allowable penalty at law in litigation of this case should you, and EPA fail to reach a settlement in the time period allotted.

To reach settlement within 90 days, we will need to begin prefilings negotiations within 30 days of the day you receive this letter by email. If you wish to set up an initial meeting to discuss this matter, please contact Alex Fidis in the Office of Regional Counsel at (206) 553-4710 **within 14 days of this email**. EPA is willing to meet with you at our Seattle office or via teleconference. If we do not hear from you within 14 days, EPA is prepared to move forward with an enforcement action unilaterally.

Thank you for your prompt attention to this important matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Edward J. Kowalski", with a stylized flourish at the end.

Edward J. Kowalski, Director
Office of Compliance and Enforcement

Enclosure:

1. Information Request, In the Matter of Rim Fire Ranch, LLC

cc:

Mr. Curtis Yett
Sage Dairy, LLC
P.O. Box 490
Parma, Idaho 83660

Mr. Joel Van Lith
Registered Agent, Sage Dairy, LLC
18641 Chicken Dinner Road
Caldwell, Idaho 83607

Alex Fidis
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 10

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101

IN THE MATTER OF:

Mr. Terry A. Jones
Rim Fire Ranch, LLC
5888 Sandy Avenue
Emmett, Idaho 83617

Respondent.

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) INFORMATION REQUEST
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Pursuant to Section 308 of the Clean Water Act (CWA), 33 U.S.C. § 1318, the U.S. Environmental Protection Agency (EPA), through the Director of the Office of Compliance and Enforcement, and upon the basis of available information, hereby makes the following Information Request to Rim Fire Ranch, LLC (Respondent) and to Mr. Terry A. Jones as a member of Respondent.

INSTRUCTIONS

1. Your response to this Information Request is due no later than May 1, 2014. The response should be sent or otherwise provided to:

Steven Potokar
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 900
Mail Stop: OCE-133
Seattle, WA 98101

Telephone Number: (206) 553-6354
Fax Number: (206) 553-1280

2. The information requested must be submitted whether or not you regard part or all of it as a trade secret or confidential business information (CBI). You may, if you desire, assert a business confidentiality claim covering all or part of the information submitted as provided in Section 308 of the CWA, 33 U.S.C. § 3818(b), and Title 40 of the Code of Federal Regulations (C.F.R.) Part 2, Subpart B (40 C.F.R. Part 2, Subpart B). Rules governing certain information obtained under the CWA appear in 40 C.F.R. § 2.302. All information claimed as confidential should be contained on separate sheet(s) and should be clearly identified as "confidential," "trade secret," or "proprietary." Please note that you bear the burden of substantiating your confidentiality claim. Unless you make a CBI claim at the time you submit the information in the manner described in 40 C.F.R. § 2.203(b), it may be made available to the public by EPA without further notice to you. Information subject to a business confidentiality claim may be disclosed by EPA only to the extent and pursuant to the procedures set forth in 40 C.F.R. Part 2, Subpart B. You should read the above-cited statutes and regulations carefully before asserting a business confidentiality claim since certain categories of information, such as nutrient management plans, are not properly the subject of such a claim.
3. Each question in this Information Request must be answered completely. Provide a separate answer to each question and clearly identify the question number and subpart which your answer and any documents provided respond to. Incomplete, evasive, or ambiguous answers shall constitute a failure to respond to the Information Request and may subject Respondents to penalties as set forth below.

4. This Information Request is not subject to the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501, *et seq.*

DEFINITIONS

All terms not defined herein shall have their ordinary meaning unless such terms are defined in Section 502 of the CWA, 33 U.S.C. § 1362, or 40 C.F.R. Part 122. Certain definitions from Section 502 of the CWA and 40 C.F.R. § 122.23 are provided below for ease of reference.

1. The term “Respondent” shall mean Rim Fire Ranch, LLC, a limited liability company organized in the state of Idaho.
2. The term “document” or “documents” shall mean any method of recording, storing or transmitting information, including but not limited to writings of any kind (letters, memoranda, emails, agreements, contracts, fax transmittals, notebooks and reports); any film or photographs; and any blueprints, schematics or drawings.
3. The term “facility” shall mean all real property at 5888 Sandy Avenue, Emmett, Idaho 83617, under contiguous ownership and any appurtenances thereon.
4. The term “manure” is defined at 40 C.F.R. § 122.23(b)(5) to include manure, bedding, compost and raw materials or other materials comingled with manure or set aside for disposal.
5. The term “person” is defined at Section 502(5) of the CWA, 33 U.S.C. § 1362(5), to mean an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body.

6. The term “process wastewater” is defined at 40 C.F.R. § 122.23(b)(7) to mean water directly or indirectly used in the operation of an animal feeding operation for any or all of the following: spillage or overflow from animal watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process wastewater also includes any water which comes into contact with any raw materials, products, or byproducts, including manure, litter, feed, milk, eggs or bedding.

INFORMATION REQUEST

1. Identify all members, managers and responsible officers of Respondent. For each person identified provide a full name and contact information including address and telephone number. Describe Respondent’s management structure and identify the person(s) with the responsibility for making decisions concerning Respondent’s daily operations.
2. Describe the nature of Respondent’s property interest in the facility including whether Respondent owns, leases, or rents the facility, or any part of the facility, and when Respondent first acquired its property interest in the facility. If not included in the description of Respondent’s property interest, include a description and delineation of all the areas of the facility over which Respondent exercises control. Provide complete copies of all documents concerning Respondent’s property interest in the facility, or any part of the facility, including all deeds, titles, easements, lease agreements, rental agreements or licenses. If not

already provided, provide copies of all agreements Respondent has with Sage Dairy, LLC.

3. Provide a facility map and documents showing slopes and elevation, pens, berms, ditches, canals, retention ponds, settling ponds, drain tiles or other constructed or natural features that convey surface water and stormwater runoff on or off the facility. Include any other documentation indicating the locations of these features and systems.
4. Describe the nature of Respondent's operations at the facility. For each of the last five years, provide a detailed description of all agricultural activities conducted or otherwise authorized by Respondent at the facility, including but not limited to a detailed description for each year of the number and types of livestock (e.g., heifer v. slaughter cows) at the facility and the acreage and types of crops cultivated at the facility. If the nature of agricultural operations at the facility changed in the last five years, including increases or decreases in the number of animals or changes in the types of animals or crops, provide a description of such changes.
5. Provide a detailed description of Respondent's irrigation system and practices, including but not limited to a description of irrigation storage, conveyance, irrigation, and collection of return flows. Identify the person(s) responsible for the operation and maintenance of the irrigation system at the facility and include an address or telephone number for each identified person. Provide all documents related to the irrigation system and practices in the last five years including, but

not limited to pumping records, irrigation records, irrigation methods, land application rates, and crop type.

6. Describe any changes or modifications to the irrigation system or irrigation practices in the last five years. Provide all documents related to such changes including cost documentation.
7. Describe in detail the nutrient management practices used by Respondent at the facility. Provide a copy of all Nutrient Management Plans for the facility and copies of all documents related to the collection or land application of manure or process wastewater in the last five years. Identify the source of all manure or process wastewater that is land applied at the facility, and the person(s) responsible for the land application of manure or process wastewater at the facility and include an address or telephone number for each identified person. If Respondent does not operate or otherwise control the source of the manure or process wastewater, describe in detail the point at which Respondent takes possession of the manure or process wastewater and provide copies of all agreements and records of such transactions in the last five years.
9. Provide a detailed description of the hydrological connection between Respondent's irrigation system and Sand Hollow Drain or Sand Hollow Creek. Describe all discharges in the last five years of process wastewater from animal feeding operations from the facility to surface waters, including Sand Hollow Drain, via surface or subsurface connections. Provide copies of all documents related to such discharges.

ENFORCEMENT

Failure to provide all of the requested information on time or to adequately explain the basis for such failure, or making any false material statement or representation in response to this Information Request constitutes a violation of Section 308 of the CWA, which may result in an enforcement action and the imposition of civil and/or criminal penalties or fines of up to \$37,500 per day for each violation, as provided under Section 309 of the CWA, 33 U.S.C. § 1319, and Title 18 of the United States Code, 18 U.S.C. § 1001.

Call Steven Potokar, Office of Compliance and Enforcement, NPDES Compliance Unit, at (206) 553-6354, if you have any questions regarding technical matters, or Alexander Fidis, Office of Regional Counsel, at (206) 553-4710, if you have any questions regarding legal matters.

Dated this 4th day of April, 2014.


Edward J. Kowalski, Director
Office of Compliance and Enforcement

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101

IN THE MATTER OF:

Rim Fire Ranch LLC
5888 Sandy Avenue
Emmett, Idaho 83607

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) AFFIDAVIT FOR INFORMATION
) REQUEST
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I, _____, being first duly sworn, hereby
certify that the enclosed response to the above-captioned Information Request is true,
accurate, and complete. I certify that the portions of this response which I did not
personally prepare were prepared by persons acting on behalf of the Respondent, under
my supervision and at my instruction, and that the information provided is true, accurate,
and complete. I make this certification both on my own behalf, and on behalf of the
Respondent, as its authorized representative.

Signature: _____ Dated: _____

Printed Name: _____

Title: _____

SUBSCRIBED and SWORN to before me this ____ day of _____, 2014.

NOTARY PUBLIC in and for the State of _____

residing at _____

My Commission expires _____